THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO.8273 OF 2005

Dated 21st September 2005

Between:

V.Rohini Kumar S/o.V.Vittal Rao

…Petitioner

And

The Chairman & Disciplinary Authority,

Vasavi Co.op.Bank Ltd., Malakpet, Hyderabad & others.

…Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO.8273 OF 2005

O R D E R:

The petitioner was appointed in the Vasavi Cooperative Bank Limited, initially on 27.10.1981. By November 2002, he held the post of Managing Director of that bank. Through proceedings dated 7.11.2002, the management of the bank required him to go on leave. Thereafter, the Reserve Bank of India brought the bank under the directives, under Section 35-A of the Banking Regulations Act. Consequently, the Registrar of Cooperative Societies appointed a set of Directors, as Persons-in-charge.

The management of the bank appointed an enquiry officer, to conduct enquiry

into various allegations, against the petitioner. A charge sheet dated 15.11.2003 was served upon the petitioner. Subsequently, the petitioner took objection to the competence of the enquiry officer, who signed the charge sheet. The enquiry officer overruled the objection of the petitioner, through his order dated 12.4.2004. Thereafter, the Chairman of the bank, first respondent herein, issued another charge sheet dated 6.7.2004. The objection raised to this was also overruled by the Chairman. This writ petition is filed challenging the very initiation of disciplinary proceedings against the petitioner.

Sri S.Srinivasa Sarma, learned counsel for the petitioner, had urged several contentions. He submits that the first respondent is the appointing authority of the petitioner, and he alone was competent to initiate disciplinary proceedings and issue charge sheet. According to the learned counsel, the enquiry officer does not have the power or jurisdiction, to issue a charge sheet. His further contention is that though several objections were raised, as to the validity of charge sheets, the enquiry officer proceeded with the enquiry, unilaterally, and the petitioner was not given an opportunity to participate in the enquiry.

Sri Ashok Anand Kumar, learned Standing Counsel for respondents 1 and 2, raised objection as to the very maintainability of the writ petition. He contends that even after the enquiry officer overruled the objections raised by the petitioner, he did not participate in the enquiry, and ultimately, the enquiry officer has submitted his report. It is also represented that a final show-cause notice, dated 14.9.2005, was served upon the petitioner. Learned counsel submits that the petitioner can put forth his contentions, in response to the show-cause notice.

Learned Standing Counsel has raised an objection as to the very maintainability of the writ petition. He placed reliance upon certain judgments rendered by the Supreme Court, as well as this Court. While the submission of the learned Standing Counsel is based upon the very constitution of the bank, *viz*. a body registered under the A.P.Cooperative Societies Act, learned counsel for the petitioner insisted that it was brought under the purview of the Registrar, Cooperative Societies, and functioning under the supervision of the Reserve Bank

of India. Having regard to the nature of disposal, which this court intends to give to this writ petition, it is not felt necessary, to delve deep into these objections, and the question is left open to be agitated at appropriate stage.

The respondents initiated disciplinary proceedings against the petitioner, by serving charge sheets. He raised certain objections in relation to them. The enquiry officer and the chairman passed orders, overruling the objections. By their very nature, the disciplinary proceedings have to be concluded with the passing of an order, based upon the report of the enquiry officer, duly giving an opportunity to the delinquent official. It is not necessary that at every stage, a final adjudication must take place, or every objection must be dealt with, through a reasoned order, in the form of a judgment. At any rate, the employee can raise such objections, even at a later stage, be it at the stage of submission of explanation to the final show-cause notice, or in the challenge before an Administrative or Judicial forum.

As of now, the petitioner was issued a final show-cause notice, proposing the punishment of dismissal. He can file his explanation to this, in which he can raise all objections, as well as point out grievances. If he was not given an opportunity of participating in the enquiry, he can bring the same to the notice of the management. In case, the management is satisfied about the contention, they can certainly take necessary steps to ensure that the grievance of the petitioner is redressed. Even assuming that the grievance of the petitioner is not dealt with properly, he can avail the alternative remedy. Any further discussion on this aspect is likely to have its shadow, on the final outcome of the proceedings.

For the foregoing reasons, the writ petition is disposed of, leaving it open to the petitioner, to submit his explanation to the final show-cause notice, dated 14.9.2005, within a period of 15 days from today. The respondents, in turn, shall consider the explanation submitted by the petitioner, in its proper perspective, and pass appropriate orders, in accordance with law. There shall be no order as to costs.

21st September 2005

Note: Issue C.C. in three days.

(B/o)

PAN